

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CANDIE L.,

Plaintiff,

-v-

5:21-CV-399

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

APPEARANCES:

OLINSKY LAW GROUP
Attorneys for Plaintiff
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Syracuse, NY 13202

SOCIAL SECURITY
ADMINISTRATION
Attorneys for Defendant
J.F.K. Federal Building, Room 625
15 New Sudbury Street
Boston, MA 02203

DAVID N. HURD
United States District Judge

OF COUNSEL:

HOWARD D. OLINSKY, ESQ.
JULIE ATKINS, ESQ.

CANDACE LAWRENCE, ESQ.
TIMOTHY SEAN BOLEN, ESQ.
Special Ass't U.S. Attorneys

ORDER ON REPORT & RECOMMENDATION

On April 7, 2021, plaintiff Candie L.¹ (“plaintiff” or “claimant”) filed this action seeking review of the final decision of defendant Commissioner of Social Security (“Commissioner” or “defendant”) denying her application for Supplemental Security Income (“SSI”) under the Social Security Act (the “Act”). Dkt. No. 1.

After the Commissioner filed a certified copy of the Administrative Record, Dkt. No. 12, both parties briefed the matter in accordance with General Order 18, which provides that an appeal taken from a final decision denying benefits will be treated as if the parties have filed cross-motions for a judgment on the pleadings, Dkt. Nos. 15–16.

On August 4, 2022, U.S. Magistrate Judge David E. Peebles advised by Report & Recommendation (“R&R”) that plaintiff’s motion for a judgment on the pleadings be granted, the Commissioner’s motion for a judgment on the pleadings be denied, the Commissioner’s decision be reversed, and that this matter be remanded with a directed finding of disability. Dkt. No. 20.

Neither party has filed objections, and the time period in which to do so

¹ In accordance with a May 1, 2018 memorandum issued by the Judicial Conference’s Committee on Court Administration and Case Management and adopted as local practice in this District, only claimant’s first name and last initial will be mentioned in this opinion.

has expired. *See* Dkt. No. 20. Upon review for clear error, the R&R will be accepted and adopted in all respects. *See* FED. R. CIV. P. 72(b).

Therefore, it is

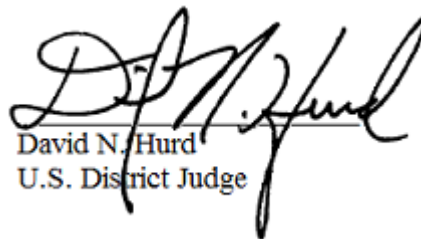
ORDERED that

1. The Report & Recommendation is ACCEPTED;
2. Plaintiff's motion for a judgment on the pleading is GRANTED;
3. The Commissioner's motion for a judgment on the pleadings is DENIED;
4. The Commissioner's decision is REVERSED and VACATED; and
5. This matter is REMANDED with a directed finding of disability, for the sole purpose of calculating benefits owing to plaintiff, pursuant to sentence four of 42 U.S.C. § 405(g).

The Clerk of the Court is directed to enter a judgment accordingly and close the file.

IT IS SO ORDERED.

Dated: August 22, 2022
Utica, New York.


David N. Hurd
U.S. District Judge